October 25, 2007

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA
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IN THE MATTER OF MTPCS, LLC, dba CHINOOK WIRELESS, Application for Designation as an Eligible Telecommunications Carrier	)	To Commissioners, Kate, Robin
	)	From Mike Lee
	)	D2007.2.18

FACT SHEET

Introduction and Procedural Background

After a brief introduction, this Fact Sheet will summarize the procedural record. A summary of the direct testimony filed by each of Chinook Wireless ("CW" or "MTPCS") the Montana Consumer Counsel (MCC) and the Montana Telecommunications Association (MTA) is then provided. A summary of the rebuttal testimony filed by CW concludes this Fact Sheet. Besides the PSC staff, certain of the intervenors engaged in discovery that may become part of the evidentiary record. The hearing commences on October 31, 2007, at 9:00a.m., Helena, Montana.

Procedural events in this docket include:

- February 1, 2007, CW filed a Motion for Protective Order.
- February 28, 2007, CW filed an Application for designation as an ETC.
- March 13, 2007, A Notice of Application and Intervention Deadline was issued.
- April 12, 2007, A Notice of Staff Action (NSA) granted intervention to: Blackfoot Telephone Cooperative, Inc. (BTC), the Montana Consumer Counsel (MCC), Montana Independent Telecommunications Systems (MITS), the Montana Telecommunications Association (MTA) and 3 Rivers Telephone Cooperative, Inc. (3RTC).
- May 22, 2007, Procedural Order No 6812a was issued.
- August 6, 2007, A PSC NSA amends and reinstates the procedural schedule.
- October 12, 2007, A PSC Staff Limited Prehearing Memorandum is issued.
- October 12, 2007, A Notice of Commission Action (NCA) granted pro hac vice to Ms. Rebecca DeCook.
- October 12, 2007, The Notice of Public Hearing was issued.
- October 31, 2007, The hearing commences at 9:00a.m. in the PSC's Bollinger Room, Helena, Montana.

Application of Chinook Wireless

On February 28, 2007, CW filed its application to be designated an ETC in Montana. Its application is filed pursuant to Section 69-3-840 M.C.A., ARM 38.5.3201 and Section 214(e) of the Telecommunications Act of 1996 (the "'96 Act"). CW requests that its designation allow it to receive all available support from the federal Universal Service Fund ("FUSF"). CW's application references the initial testimony of its three witnesses, provides a service area map, build-out information, letters of support, rate plans, affected wire centers /study areas, the Cellular Telephone and Internet Association ("CTIA") Consumer Code and CW's high-cost certification letter.

As for background, CW asserts to hold FCC authorizations in Montana to provide Personal Communications Service ("PCS") for numerous Basic Trading Areas ("BTAs").[1] Its combined FCC licensed service area covers almost the entire state of Montana, except for parts of Lincoln County not in major trading area # 042 ("MTA 042"). CW's operations headquarters are in Great Falls and it has a technical operations center in Missoula. CW said 90% of its employees live and work in Montana. CW is a "CMRS" (Commercial Mobile Radio Service) provider of interstate telecommunications services.

CW asserts it will comply within a reasonable time following its designation with ARM 38.5.3209(2). First, CW will offer the nine supported services required to qualify for FUSF support in accord with ARM 38.5.3209(2). CW will offer voice-grade access to the public switched telecommunications network ("PSTN") through direct and indirect interconnection arrangements with local telephone companies, including Qwest and BTC. CW will offer its subscribers "this" service in the 300 to 3000 Hertz range. CW's handsets modulate a signal based on this full spectrum of voice frequencies, allowing transmission and communication of these frequencies.[2] CW's service also meets the requirement that transmission quality equal or exceed the -104dBm signal strength

[1] CW explained that PCS is a subset of CMRS. DR PSC -002(c) CW said its BTAs cover all of Qwest's wire centers. DR PSC -004(a)

[2] Modulation can be by amplitude, width or duration or in combination. DR PSC -004(c)

standard.[3] As for "local usage," CW has a variety of rate plans that provide local usage. CW will offer several service plans providing consumers with local usage that are comparable to a wireline rate plan offered by the incumbent local exchange carrier ("ILEC"), and it will continue to introduce new plans. CW provides the functional equivalent of dual tone multi-frequency ("DTMF") signaling, and will provide signaling system seven ("SS7") that CW asserts is overtaking the former signaling protocols.[4] CW provides single party service. As for emergency services, CW provides 911 access everywhere its service is available. In addition, CW provides E911 service in Cascade, Gallatin, Yellowstone and Chouteau counties and is deploying Phase I service to other counties. CW is in the process of deploying Phase II E911 service. DR PSC -007(b) CW explained that it has completed implementing Phase II deployment to all PSAPs that submitted a bona fide request.[5] CW provides operator services by means of trunks that connect CW's switching center to an operator call center and customers can reach operator services by dialing "411." CW has signed interconnection agreements ("IAs") to provide access to interexchange carriers ("IXCs"). CW clarified that it meant to refer to "agreements" that it had with an IXC and CLECs.[6] Customers may also "dial around" to reach an IXC of choice. CW provides access to directory assistance by way of "411" dialing or (NPA –North American Numbering Plan Administration) 555-1212. If designated an ETC, CW will provide toll limitation service to Lifeline consumers by way

[3] Achievement of -104dBm depends on the distance and topography between towers and handsets. DR PSC -022(a)

[4] DTMF dialing is in-band signaling used by analog phones. SS7 is out-of-band. DR PSC -007(a) DTMF is an inherent feature of a switch. DR PSC -021 CW explained that DTMF is, like other CLASS and Custom Calling features, a standard, not an "add-on," feature of its switches that subscribers receive at no additional cost. DR PSC -049

[5] CW explained the process by which it serves Public Safety Answering Points (PSAPs). DR PSC -041(c) and DR PSC -032

[6] CW said the agreement with the IXC is to provide telecommunications between the IXC's locations. The agreements with CLECs are for dedicated "trunks" that CW uses to "transport" traffic, such as access from CW's cell sites to IXC locations. DR PSC -046

of toll blocking capabilities.[7]

Second, CW commits to advertise the supported services and the charges using media of general distribution. CW's method of advertising may use newspaper, magazine, direct mailing, public exhibits and displays, bill inserts and telephone directories. CW will advertise the availability of Lifeline and LinkUp benefits, reaching out to community health, welfare, and employment offices to provide information to those people most likely to qualify for Lifeline and LinkUp.

Third, CW commits to provide the "…supported services throughout the designated service area to all customers making a reasonable[8] request for service, including low-income, low density, rural, insular and high-cost customers, and, for service in rural areas, in a manner reasonably comparable and at a rate reasonably comparable to similar services offered in urban areas." CW will use a "six-step" process to provide service that the FCC approved. Under this process CW will assist customers requesting service by providing where feasible enhanced equipment such as an external fixed antenna, a "cell extend," or a telephone that operates on higher power. CW will use all available support to improve, maintain and to upgrade its network.

Fourth, CW commits to meet all applicable consumer protection and service quality standards to the same extent imposed by the PSC in its Sagebrush order.

Fifth, CW commits to offer a local usage plan comparable to the one the ILEC offers. CW offers several plans with local usage and rates that are comparable to those offered by the ILEC in the service areas for which CW seeks designation.

Sixth, CW asserts that it will demonstrate satisfaction of the public interest provisions in ARM 38.5.3209(2)(f), as described more fully in the testimonies of Jonathan Foxman, Ernie Peterson, and Patrick Monroe.[9] In this regard, CW includes in Exhibit D a map of the proposed ETC service "area." CW seeks designation as an ETC within the service "area" covering the study area(s) of BTC, 3RTC and Qwest.

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[7] CW does not know the number of Lifeline customers but does intend to begin offering Lifeline rates in Browning once its FUSF program commences. DR PSC -010

[8] CW explained the criteria it would use to determine reasonableness. DR PSC -001(c)

[9] CW responded to a question of why it would be in the public interest to designate it an

Although CW does provide service in other parts of Montana, it did not seek ETC designation in other areas. As CW explained, it did not seek ETC designation in other areas as it was not confident that it could satisfy the PSC rule's 98% coverage within the five-year time constraint. DR PSC -031(c) Based on Alltel's coverage maps, it appears that Alltel also has licenses throughout the state of Montana, well beyond the Qwest exchanges for which it was designated an ETC. DR PSC -031(d) As state commissions may establish an ETC service area for a competitor without federal concurrence, CW requests designation for the non-rural part of its ETC service area in the wire centers served by non-rural carrier Qwest (see Exhibit I). As for areas served by rural carriers, "service area" means the LEC study area unless and until the FCC and the "states," taking into account for recommendations of the Federal-State Joint Board on Universal Service ("FSJB"), establish a different definition of service area for such a company. As CW's proposed ETC service area covers the "entire study area" of each of BTC and 3RTC, the PSC may designate CW as an ETC in "all requested areas" without the need to redefine any service area (see Exhibit J).

CW expands on why it is in the public interest to grant its ETC application. CW lists the numerous cases decided by the FCC and other state commissions finding that it is in the public interest to grant ETC petitions. The FCC has held that designating an ETC in non-rural areas is *per se* in the public interest. CW asserts the public interest must be determined following the guidance Congress provided in the '96 Act, the FCC's enabling orders and by PSC rules. CW adds that the overarching principles embodied in the '96 Act are to promote competition and reduce regulation, secure lower prices and higher quality services and to encourage the rapid deployment of new telecommunications technologies.

CW asserts the eleven factors set forth in ARM 38.5.3210 are designed to aid the PSC in making its public interest assessment. As explained and further demonstrated in the testimony of its witnesses CW asserts to satisfy each of the eleven factors as follows. CW will provide all nine of the supported services. CW also understands that its non-compliance can result in revocation of its ETC designation. CW will comply with the PSC's reporting requirements (build out plans, coverage, service quality, unsatisfied

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ETC if Alltel would lose FUSFs. DR PSC -003(a)

service requests, FUSF receipts and the filing of rate plans). CW asserts there is no question but that all the service areas can support an additional ETC adding that the Washington Utilities and Transportation Commission rejected the notion that competitive ETC ("CETC") designations are harmful. CW asserts there are significant consumer and economic benefits to designating a "wireless carrier" as a CETC in rural areas. Nor will any rural carrier be harmed by CW's designation as under the FCC's current rules ILECs generally to not lose support when a competitive ETC is designated. CW's platform is compatible with broadband[10] and other advanced service offerings as evident from the high value that CW places on "voice call coverage" and "high-quality data features and functionality." CW deployed state-of-the-art GSM/EDGE data functionality at every cell site it operates in Montana.[11] CW's "EDGE" network is capable of delivering peak data transmission speeds of up to 473 kbps.[12] CW commits to meet all applicable equal access requirements. CW will provide service using its "own facilities."[13] CW asserts that its designation will not "significantly" burden the FUSF. CW also asserts that its designation will advance the universal service principles set forth by Congress, including access to telecommunications services and prices that are "reasonably comparable" to those availed in urban areas. CW's designation will provided increased access to

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[10] CW said broadband is not currently an FCC supported service and added that the speed difference 160 to 200kbps vis-a-vis landline speeds is irrelevant. DR PSC -009(c)

[11] CW defined and then explained the functionality of Global Systems for Mobile Communications (GSM) and its Enhanced Data Rates for GSM Evolution (EDGE). DR PSC -009(b) CW added that the nation's first and forth largest wireless carriers, representing some 100 million customers, use GSM whereas Verizon's and Alltel's networks are CDMA. Alltel does maintain a GSM network for roaming only. Worldwide, 8 of 9 wireless users utilize GSM. DR PSC -041

[12] CW intends to move to faster broadband as it moves to future generations of EDGE technology that has speeds of 3.6 and 7.2 Mbps (down). DR PSC -0002(e) The 473kbps is the theoretical downstream speed and its current peak capability is the same regardless of a customer's location. DR PSC -019(b)

[13] CW owns its switch, media gateway, base station controllers, transcoders, base stations, repeaters, antennas, lines, tower top amplifiers, voice mail servers, short message system, OSS network monitoring system and other cell site equipment such as generators. DR PSC -009(a)

wireless telecommunications for rural Montanans and competition in rural areas will spur development of advanced services as carriers vie for a consumer's business. The positive "economic development benefits" include enhancing the ability of rural communicates to compete. CW notes that the public necessity and safety benefits include providing rural consumers with "peace of mind" from being able to make calls in emergencies from various locations. CW's designation will promote competition, increase consumer choice and service quality in rural areas where consumers have not had a meaningful choice of service provider.[14] As wireless service is a "convenience" in most rural areas it will not emerge as a "potential alternative" to wireline service unless high-cost loop support is made available to drive infrastructure investment. Without the high-cost program it is doubtful that many rural areas would have wireline service.

Seventh, CW commits to comply with ARM 38.5.3213 requiring a plan that demonstrates the manner in which customers will have access to service and involving a minimum of 98% service coverage within five years.[15] The details are in CW's Confidential Exhibits F-1 through F-8, which compare CW's coverage to the proposed expanded coverage and facility construction that it intends to implement by the end of 2008. Exhibit E-1 and Confidential Exhibit E-2 provide a general description of the analysis contained in CW's documentation "set forth its expansion plans." Confidential Exhibits F-1 and F-5 show CW's current coverage and planned expansion. Confidential Exhibits F-2 through F-4 show CW's current coverage in each ILEC's service area. Confidential Exhibits F-6 through F-8 show CW's planned expansion in each ILEC's service area where designation is sought. Confidential Exhibit F-5 is a map of the additional locations where CW intends to construct facilities. Whether CW achieves 98% coverage in five years depends on the amount of high-cost support it receives.

Eighth, as under FCC rules CFR 54.313 and CFR 54.314 a carrier wishing to obtain high-cost support must, as necessary, be certified by the appropriate state commission, CW attached its high-cost certification letter as Exhibit L, and requests the

[14] As a measure of service quality, CW compares its churn rates to the industry's churn rate. DR PSC -019(a)

[15] CW explained how it will know when it achieves 98% coverage. DR PSC -017(a) Its achievement of 98% coverage depends on FUSF receipts. DR PSC -018(e)

PSC to issue a finding that it has met the high-cost certification requirement. CW requests that the PSC file such a certification with both the FCC and USAC within the FCC-specified period of 60 days following the effective date of an order designating it as an ETC.

Chinook Wireless Direct Testimony: Foxman, Peterson, Monroe

Jonathan Foxman CW's witness Foxman provides background about CW and evidence necessary to demonstrate that CW will meet all federal and Montana requirements to be designated as an ETC. CW formed in 2005 to provide superior wireless telecommunications service in Montana. CW's goal is to "address" the significant needs of Montana's consumers, businesses and public safety jurisdictions for "advanced" wireless services. CW is a Montana-based company, not a national carrier with which it will compete. It provides a broad array of enhanced and data communications, including Bluetooth connectivity and access to multimedia content. CW seeks funds to further enable it to better provide basic and enhanced capabilities, thereby increasing access to new technology and much-needed means of emergency communications. CW's initial network consisted of wireless assets acquired and conveyed to it from BTC, 3RTC, Nemont Communications (NC), Triangle Communications, Inc., (TCI) and Summit Liquidating Trust (SLT). In purchasing these entities' wireless assets CW acquired all federal spectrum licenses and tower authority to provide service in Montana. CW also holds all necessary state and federal permits and licenses to both operate and provide service in Montana.

CW demonstrates its commitment to serve Montana with a largely Montana-based sales, marketing, customer service and technical operations staff. CW has substantially invested to replace entirely the legacy networks it acquired with a "unified," broader and technically advanced GSM/EDGE network, which provides the highest quality voice and data services in Montana. To date, CW has invested in excess of $40 million in Montana, adding 10 new cell sites in the first two months of 2007. In addition, it employs 130 Montanans, 90 % of its employees. CW commits to provide coverage in "unserved" and "underserved" areas of Montana, where competitive services are either extremely weak or nonexistent, including in Choteau, Fairfield, Ennis, Twin Bridges, Pendroy, Sheridan

and Power and it will construct a site in Browning, bringing new coverage to an area of the Blackfeet Indian Reservation.[16]

CW seeks ETC designation so that it can give rural consumers an opportunity to receive the same level of service and signal quality that consumers "in big cities and suburbs across the country" have come to expect. CW will do this by significantly expanding network coverage. High-cost FUSF support will enable CW to invest in facilities in many remote and underserved areas. In turn, the expansion will enable CW to better achieve its objectives of providing rural and urban Montanans with access to advanced, ubiquitous voice and data communications capabilities. At present, CW is not able to receive FUSF support to provide service in Montana, and is therefore at a "severe competitive disadvantage." CW is also at a competitive disadvantage in comparison to large nationwide carriers that serve rural Montana and "revenue-rich" major population centers across the country.

Foxman testifies that wireless carriers pay into the FUSF, contributing about 32% of its total contributions. Wireless carriers however only draw about 10.5% of the fund. Since 1996, about $22 billion has gone to rural landline customers and only $2 billion has gone to rural wireless carriers. Designating wireless carriers as ETCs is competitively neutral.

Foxman adds that CW will use high-cost support to finance construction, maintenance and upgrades of facilities and services as required by federal law to use all FUSF support only for the provision, maintenance and upgrading of facilities. Within a week of receipt of ETC designation CW will begin planning for improvements involving the construction of supported sites which will begin within six to twelve months. CW adds that the PSC will be able to verify that CW uses all FUSFs only for the expansion and the improvement of service in its Montana ETC area. CW will provide maps and descriptions of its progress in meeting all build-out, service quality and coverage targets.

Foxman testified that CW's use of federal high-cost support serves the public interest as such support means more cell sites and more cell sites means more coverage,

[16] CW provided a confidential response expanding on the unserved areas it will cover and notes that it has no current plans to use resale or roaming. DR PSC -003(c),(d), -005(a) CW defined unserved and underserved. DR PSC -015(a)

including for many remote and hard-to-serve areas that larger carriers have not reached given their focus on cities and highways. CW's success and expansion means more jobs and economic growth for Montana. CW's Montana customers will benefit from higher quality and a more competitive system. In addition, the customers of other mobile service carriers and out-of-state visitors will benefit from CW's more robust network which permits roamers to make emergency and other calls. Making service available to customers who currently lack service is another benefit. He adds that wireless service is important for rural communities for reasons of increased public safety, increased economic opportunities and increased competition. High-quality wireless service can mitigate the unique risks of rural isolation. He also adds that other state commissions have noted economic development benefits of wireless service. Areas lacking reliable wireless communications are at an economic development disadvantage as a broad array of businesses, such as high-tech companies, manufacturing and building contractors are less likely to enter or remain in areas that lack wireless service. As noted in the '96 Act, consumers in all areas, including rural regions, deserve the same kinds of choices as those available in urban areas. CW will make the same services and rates available to all customers within its service area. That there now are more wireless subscribers than wireline access lines in the U.S. is evidence of the various needs customers have for wireless services. By making basic and enhanced telecommunications more available, Montanans, including individuals, groups and businesses will benefit.

Ernie Peterson Peterson's testimony addresses the following: 1) CW's qualifications to be designated an ETC; 2) why its designation is in the public interest and how CW satisfies the public interest factors in ARM 38.5.3210; 3) the scope of CW's request; 4) why CW seeks ETC status; 5) how CW intends to meet the coverage requirements in ARM 38.5.3213; and 6) evidence that CW provides comparable local usage plans to those offered by the underlying local exchange carriers in the relevant service areas as required by ARM 38.5.3209(2)(e).

Peterson describes CW as a CMRS provider that the FCC has licensed and that differs from national carriers that seek to serve large metropolitan areas and highways. CW seeks designation throughout the entirety of the ILEC study areas of BTC, 3RTC and Qwest, as evidenced by his Exh D. As for why CW seeks ETC status, CW desires to

continue to improve its network in ways that would not be feasible without high-cost FUSF support. CW wants to install added facilities that enable its provision of high-quality service to mobile phone users throughout a greater geographic area. At present, CW's facilities provide coverage to 76.1% of 3RTC's service area population, but can increase to 98.6% by 2008. CW intends to meet the coverage requirement in the other ILEC areas within the five-year period. As CW and its customers pay into the FUSF, the benefits of FUSF should be received that includes a more "robust" network with more advanced service features and packages. CW also seeks to compete on a more level playing field with ILECs who have long benefited from both implicit and explicit federal subsidies to support their Montana networks. CW also seeks a more level playing field with other wireless carriers who receive FUSF support. CW commits to provide to "high-cost areas" the strong coverage and service quality it provides in urban and rural areas. With FUSF support CW can upgrade and expand its network to provide a high-quality, competitive service offering that rural consumers may choose as their primary, exclusive or complementary telephone service.

Peterson testifies that CW commits to use all FUSF high-cost support to improve its network infrastructure to offer Montana's rural consumers high-quality service by way of an aggressive expansion of its coverage area. He adds that CW intends to satisfy ARM 38.5.3213 by the goal of 98% coverage. CW's build out plans during the initial period that ends at the end of 2008 are in Exhibits: E-1, and confidential exhibits E-2 and F-1 through F-8. Confidential exhibits F-1 to F-5 show CW's present coverage and expanded coverage through 2008. CW's Exhibits F-2 through F-4 show CW's current coverage in each ILEC service area for which it seeks ETC status. CW's confidential exhibits F-6 to F-8 show CW's planned expansion in each ILEC service area where it seeks ETC designation. Confidential Exh F-5 is a map of the locations where CW intends to construct facilities by the end of 2008. CW commits to provide the PSC with updates to show its progress towards achieving 98% coverage. CW seriously commits to use FUSFs to improve coverage. CW's achievement of 98% coverage depends upon the FUSF "amount of high-cost support" it receives. The PSC will be able to track CW's progress.

Peterson next explains how the public interest is served by granting CW ETC

status. CW's customer service is superior and its network is technically sound. CW will bring such services to areas some of which currently have little or no wireless coverage. Health and safety benefits cannot be overstated and these valued services will be brought to rural areas with wireless infrastructure. In turn, economic development will result. Thus, consumers and the public interest will be well served if CW is permitted to use FUSFs to construct new facilities in rural Montana. CW's Exhibit G consists of letters of support from various sources.

Peterson is familiar with the eleven public interest factors in ARM 38.5.3210 and asserts CW can provide the required services. CW will comply with all laws governing ETCs pursuant to ARM 38.5.3210(b) and realizes the revocation of ETC status can occur with non-compliance. CW will comply with and provide filings (every six months) that: 1) describe build-out plans; 2) map actual coverage (within 60 days and at six month intervals); 3) report quarterly on quality of service including unsatisfied requests and complaints; 4) report quarterly on FUSF receipts and 5) file active rate plans with the PSC. CW will cooperate with any PSC audit. CW commits to comply with the PSC's service quality rules and other provisions in the "*Sagebrush Order*."

Peterson asserts that the service areas for which CW seeks ETC status can support, or continue to support, an additional ETC, adding that over 180 CETCs have been designated in rural ILEC areas.[17] In no instance did the rural ILEC withdraw as an ETC. Peterson understands that for nearly all categories of FUSF high-cost support, ILECs do not lose support if a CETC is successful. Thus, no ILEC will likely be harmed. In response to a question of how CW's designation could effect any existing ETC, he asserts no ILEC will be harmed. CW will also be required to provide service "upon reasonable request." Nor can there be any "cream skimming" concern given CW seeks designation for the entirety of each "rural ILEC's study area."

[17] At least 25 of the 180 were FCC designations, sometimes involving multiple states. DR PSC -012(a) CW speculates that the states involved in the FCC's Nextel decision are more urbanized than Montana, on average. DR PSC -013(d) CW said "it would be discriminatory" for the FCC, with its proposed interim cap on CETCs, to have let many carriers through the FUSF gate but to now subject CETCs serving rural high-cost areas of Montana to a diluted amount of FUSFs. DR PSC -013(e) CW later explained that the FCC's Nextel designations encompassed both rural and non-rural service areas in a total of seven states. DR PSC -034(b)

Peterson explained that CW's technology platform is compatible with broadband and other advanced service offerings and it facilitates availability of advanced telecommunications and information services. CW values highly both voice call coverage and high-quality data features and functionality. CW deploys state-of-the-art GSM/EDGE data functionality at each Montana cell site that provides voice service, noting that an ETC may not spend FUSF high-cost support exclusively on network facilities used to provide data services. The EDGE network has 473 kbps peak data transmission speed capability and average speeds of 160 to 200 kbps. CW's network accommodates applications such as "advanced devices" for mobile e-mail Internet access. He adds that these range from state-of-the-art handsets to Internet "tablets" to EDGE-enabled laptops.

Peterson testified that CW will provide equal access to IXCs if no other ETC provides equal access. CW also satisfies the requirement at ARM 38.5.3210(g) to provide service using its "own network." CW will use all FUSF support to improve and upgrade its network. As for the impact CW's ETC status will have on the availability of FUSFs, he sees no indication that CETC designations have adversely affected ILECs or their customers. Even the FCC concluded that Nextel's designation in seven states would not unduly strain the FUSF even though Nextel would receive 1.88% of the total high-cost fund.[18] CW's ETC status will not significantly burden the FUSF. He asserts the CW's designation will advance the principles of universal service set out in the '96 Act. The availability of Lifeline and Link-Up discounts will further promote access to

[18] The FCC has continued to grant multiple applications for ETC designations, despite claims that the fund was on the brink and the ETC designations would strain the fund. The FCC has clearly separated the need to reform the fund and the process for doing so from the legitimate and appropriate task of designating ETCs. DR PSC -033(c) As for the impact of designating Nextel, the FCC stated: "*out of the seven states in which Nextel seeks ETC designation, the incumbent carriers in Alabama receive the most high-cost support. The total amount of high-cost support received by such carriers is approximately 1.88% of the total high-cost support available to all ETCs…even assuming that Nextel captures each and every customer located in the affected study areas, the overall size of the high-cost support mechanisms would not significantly increase.*" USAC's 4th Quarter 2007 projection is that Alabama's share will be 0.08% of funding to all carriers, far less than what the FCC found to be burdensome. DR PSC -040(c) (emphasis added). CW provided evidence on the occasions when the FCC has designated multiple ETCs within a single support area DR PSC -040(e)

affordable telecommunications services in rural areas that CW serves. Every new cell site will provide consumers with health, safety and economic development benefits. CW's designation will introduce a different "technological platform" to compete and provide a choice of services. CW's provision of mobility will serve the public convenience. In every area where CW constructs a cell site that improves coverage, consumers will experience competitive offerings, the ability to choose their provider and the option of a variety of rate plans with different rates, calling areas and vertical features. As another benefit, businesses can access the availability of mobile services when considering to move in or out of a given locale, with direct impacts on employment, the tax base and the overall ability of rural communities to compete. Used properly, FUSF support will drive infrastructure development for citizens living in small towns and on "secondary roads."

Pursuant to ARM 38.5.3210(e) Peterson testified that CW will offer a local usage plan that is comparable to the rate plan the ILEC offers (see Exhibit H to CW's Application). BTC's customers can pay $25 for unlimited calling within an expanded calling area of about two dozen exchanges (Missoula region) or for three exchanges (Helena region). 3RTC's customers can pay $29.95 for unlimited calling in a "similar" local calling area. Qwest's customers can sign up for residential service prices at $32.99/month and with unlimited calling in an area consisting of several exchanges. CW's $39.99 plan is comparable although it has a higher monthly rate as customers can make calls terminating anywhere in the U.S. without paying per-minute toll charges thereby delivering significant cost savings. CW will also offer discounts to low income Lifeline and Link-Up consumers, including "Enhanced" services to residents of tribal lands, when designated an ETC. Peterson adds that CW's designation will serve the "public necessity" by satisfying all factors in the public interest test. CW's consumers will have "peace of mind" with the ability to make calls for emergency assistance and high-cost support will enable CW to bolster its emergency functionality as well as access to emergency services. Sheriffs, emergency medical technicians and local policy increasing rely on cellular service.

Patrick Monroe Monroe states that the purpose of his testimony is to describe: 1) CW's network and its operations; 2) how it provides services to subscribers; 3) how CW

ensures service quality; 4) how FUSF support will enable expansion and improvement of these services; 5) how CW satisfies ARM 38.5.3209 and 38.5.3209(2)(e).

As for CW's network, Monroe explains that CW is licensed by the FCC to serve the entire state of Montana, which it serves almost exclusively, and for which it wishes to add high-quality "service" rapidly. CW's network was built to cover many small towns and rural areas and high-cost FUSF support will enable it to expand coverage and improve service quality in rural Montana. Monroe then recites the above noted two rules.

Monroe explains why CW satisfies the requirement to provide the nine supported services. First, he asserts that CW provides single-party service or its functional equivalent by means of a "dedicated message path" for a call's duration. Second, CW expects to be delivering Phase II E-911 data on or before March 30, 2007 as no PSAP required implementation at an earlier date. Third, he distinguishes equal access from IXC access and concludes that the FCC does not require wireless carriers to provide equal access to IXCs. He adds that while equal access is not a supported service, CW will provide it if ordered. Fourth, he clarifies that until CW is designated an ETC it will not "…participate in Lifeline."

Monroe next addresses various requirements in ARM 38.5.3209. First, with respect to ARM 38.5.3209(2)(b), CW commits to advertise the availability of supported services. Second, per ARM 38.5.3209(2)(c), he reaffirms CW's commitment to make the supported services available to customers making reasonable service requests. Third, pursuant to ARM 38.5.3209(2)(c), and with respect to the requirement to offer service in a manner reasonably comparable and at a rate reasonably comparable to similar services offered in urban areas, CW's high-quality services and rate plans will be available and on par with those available in urban areas. CW will provide the same "data rates" as are available to "urban customers." Rate plans will range from $19.99 (for 60 minutes) to $119.99 (for 5000 minutes per month) and CW will continually introduce new plans and services.[19] Fourth, pursuant to ARM 38.5.3209(2)(d), CW commits to comply with

[19] CW has an early termination fee of $175 and no automatic rollovers of contracts. DR PSC -024(c) CW clarified that it does not require service agreements with penalties for early termination, however customers may choose to purchase mobile services at a discounted rate in which case they do enter into service agreements with longer term commitments and early termination penalties. DR PSC -047

consumer protection and service quality standards, including compliance with the -104dBm signal strength requirement. Pursuant to the same rule CW will offer a local usage plan that is comparable to that offered by the ILEC. Fifth, CW's designation will serve the public interest.

Sixth, CW's network will operate reliably. CW's response time to an outage report is normally less than one hour and CW uses redundant transport and switching facilities, signaling transfer points and signaling links. High-level emergency situations are managed through the Missoula Emergency Operations Center (EOC). High-level conditions are of five types, involving severe disruptions, risk of death, longer (24 hour) duration etc. (p. 14). CW will monitor service quality for: 1) call success rates at the beginning of a call, 2) call rates in the "traffic channel," 3) traffic channel congestion, 4) blocking of network trunks, 5) network quality pursuant to "GSM standards," and 6) "handover success" between cell sites. At present CW has a 98% call completion rate. To ensure that its network provides high quality service CW uses an "RF" analysis program (p. 15) for its network coverage (modeling) predictions. CW ensures that its network will operate at a "high level" by designing its system so that "each handset" can effectively communicate with the base stations to minimize dropped calls. Predictive tools are used to "overestimate" the "path loss" by predicting more degradation in signal strength. Service quality is important to CW because it is not a national carrier and it needs to differentiate itself from its competition. CW believes a "better" network will allow it to "capture" consumers and keep them from switching to other carriers (p. 16, emphasis added). To ensure service quality, CW also makes its customer representatives available six days per week, 12 hours per day. Emergency calls are received by paging CW 24/7. To date, CW has constructed facilities primarily in major towns and along major highways, and has begun spreading into rural communities. Access to high-cost FUSF support will allow CW to accelerate its construction plans to fill in the remaining areas in its service area and to improve service to rural consumers. In some areas where signal strength is week, CW will only construct new facilities if it receives high-cost FUSF support.

MCC Direct Testimony: Allen Buckalew

On August 14, 2007 the MCC filed the direct testimony of its witness Allen Buckalew. As for the purpose of his testimony, Buckalew presents analysis of CW's ETC designation request. As for what universal service is and how CW's status as an ETC fits into the universal service mandates, he finds that universal service is an evolving set of service standards that are mandated by Congress in Section 254 of the '96 Act and effectuated by the FCC and state PSCs. He states that universal service is to make available to "all" consumers of the nation quality telecommunications services, including advanced services, at affordable rates. The provision of these services in some high cost areas, like some areas of Montana, is subsidized by all telecommunications users by way of higher rates through the FUSF. Once a carrier demonstrates to the PSC that it will comply with the standards it will become an ETC and draw a subsidy.

As for why ETCs are needed, Buckalew testified that an ETC agrees to provide universal services to "any" customer in its designated service area, generally the local exchange carriers' study areas. And, for agreeing to serve "all" customers, the ETC receives FUSF subsidies. He adds that ETCs are important as they provide services to customers that may not otherwise receive service. He then lists the nine services an ETC must provide in order to receive FUSFs.

Pursuant to Section 214(e) of the '96 Act and the FCC's May 8, 1997 Universal Service Report and Order, state PSCs must designate a qualifying common carrier as an ETC. A state PSC shall permit an ETC to relinquish its ETC designation if another ETC serves the same area. Although the competitiveness of a local exchange market will be significantly improved by including multiple carriers, markets are not competitive. And although, it is believed that wireless carriers increase the competitive choices in the market, wireless services are not substitutes for wireline services. That is, they are not really competitive products operating in the same market. While the FCC has found that wireless carriers must be considered for ETC status, the decision is the PSCs to make. Although there is "little question" that CW met the minimum standards for service provision, Buckalew adds that CW has not demonstrated that its designation is in the public interest.

As for why CW's designation is not in the public interest, Buckalew testified that

its application lacked substance and was not sufficiently complete and therefore CW should not receive FUSFs. The entire basis CW gave for its claim that its designation is in the public interest is its assertion of a " '…strong showing pertaining to rural areas'," CW could not quantify one single rural or non-rural benefit (DR MCC -034). Thus, CW has not shown it will do anything differently with, than without, FUSFs. In addition, CW provides no support for its unsupported statement that "there is no question that all service areas in which Chinook seeks designation can support additional ETC" (DRs 3RTC -010, PSC -012, MCC -028 and MCC -036). That the FCC and the Joint Board are considering a FUSF cap is proof that the system is in trouble.

Although CW's case is not a typical case, given its broad wireless exchange area, the PSC should consider cream skimming. While CW could serve the entire state thereby serving unserved consumers, CW seeks only to serve the "higher density" and more profitable areas of the state (DR MCC -010, MCC -004 and Application Exh D). This broader area needs to be considered for wireless carriers for at least two reasons: 1) the FCC mandated the major trading area for local calling and local compensation purposes and 2) wireless is not in a majority of cases a local exchange service substitute.

Buckalew concludes wireless service should have different public interest standards than local exchange carriers have. It is not in the public interest because with ETC status CW would be able to spend funds in "areas" that already have "multiple" wireless carriers. And, none of the major wireless carriers that serve the same "area" have asked for, or received, FUSF support. But, once the PSC allows one of these carriers into the FUSF pool, it will be hard to deny requests from larger wireless carriers.

Buckalew testified that CW's motives for ETC status are financial self interest to build the company up to sell it to a larger nationwide wireless provider (DR MCC -011(d)). Universal service is not CW's major focus.

Buckalew notes other indications that the application is not in the public interest. First, an ETC "must" serve all customers in "the" study area and not just where the ETC has facilities. Second, all reasonable demands for service must be met e.g., by leasing another carrier's facilities. CW cannot pick and choose customers it serves in "the" service area. Thus, CW's approach is a further indication of its lack of commitment to Montana consumers. Whereas CW must be willing and able to provide the defined

services FUSFs support, CW said it will not serve every customer and it has no plans to use other carriers' facilities to satisfy customer requests (DR MCC -033 and PSC -003).

Buckalew adds that in addition to serving all consumers, there is the carrier of last resort (COLR) obligation that is not some sort of minor duty. He adds that CW must, but does not, have both a "plan" and the demonstrated and/or planned capacity to handle this obligation (DR MCC -011, -015, -025). CW has provided virtually no network detail on whether it has sufficient capacity or in terms of how it would continue service if other carriers left the market. CW must satisfy its obligation to provide universal services over its own facilities or in conjunction with resale of other carrier's services over the entire service area. CW however wants ETC status for the higher density areas while having authority to serve most of Montana. And, CW said it is not wiling to use resale or the facilities of another carrier to serve the entire study area (DR PSC -003(e) and BTG-2) while its application says it will use resale, causing Buckalew to question which statement is true.

Buckalew also testified that CW's designation will increase enforcement problems as CW will not likely follow the rules. One problem he identifies is the lack of control over the number of lines claimed to draw funds. He adds that CW must document that each line for which it seeks compensation is "new" and not currently being served by the existing ETC, or that the customer is a "former" ETC customer and not using ETC services. Customers that merely add wireless services to existing wireline services should not be considered for compensation. Although CW states to have a solution (citing "BTG-1"), more problematic is the fact that CW's customers can be in many different study areas. Buckalew states to not be able to see how the PSC can monitor issues such as how CW markets cell phones in places with higher FUSFs using numbers from those "high support areas" for customers that live in other areas that receive less support.

MTA Direct Testimony: Geoff Feiss

The Montana Telecommunications Association (MTA) filed on August 13, 2007 the direct testimony of Geoff Feiss. Feiss said the MTA represents the small and large independent exchange carriers that do business in Montana, including "commercial,

shareholder-owned companies, and member-owned cooperatives." (p. 1) As for the purpose of his testimony, Feiss urges the PSC to reject CW's application for ETC designation, holding that there is no tangible benefit nor the need to support multiple ETCs in the same areas. CW's designation will exacerbate an already-critical threat to the viability of the FUSF and, the FUSF is vital to the preservation and advancement of essential telecommunications services, as opposed to redundant "complementary" services, in Montana.[20] He adds that the current rules provide no incentive for CW to build network facilities and if an ETC, CW would be "rewarded" for simply "counting current and/or adding more handsets." Also, CW is simply an asset in a private equity firm's investment portfolio.[21] Feiss speculates that CW intends to use FUSFs to prop up the value of the asset for its shareholders' financial gain. According to Feiss, CW's application fails the public interest standard and should be denied.

Feiss testified that FUSF is not intended to subsidize multiple, complementary service providers in the same area.[22] In this regard, FCC Chairman Martin often laments that universal service subsidies generated by the FCC's rules now support multiple wireless networks providing services that for many consumers are effectively a complement to the already subsidized wireline ILEC (p. 3). The goal of the '96 Act, however, is to promote competition and reduce regulation in order to secure lower prices and high-quality services for consumers and to encourage the rapid deployment of new telecommunications technologies. Little evidence exists that subsidies for

[20] In response to a request for an empirical estimate to support the testimony that CW's designation would exacerbate the growth in the FUSF, Feiss cites the FSJB's May 1, 2007 Recommended Decision, a study by Criterion Economics and the Congressional Budget Office." DR PSC -028(b)

[21] MTA cited ARM 38.5.3210 and the provision that the PSC's pubic interest determination is "not limited to" the items contained in the rule. DR PSC -028(c)

[22] When asked for citation to the '96 Act for any prohibition on the designation of multiple complementary service providers in the same area, MTA cited an undated letter from FCC's Chairman Martin to Congress. DR PSC -028(d) CW provided evidence on the occasions when the FCC has designated multiple ETCs within a single support area DR PSC -040(e)

complementary services enhance competition.[23] Feiss adds that CW asserts, without evidence, that there are areas not reached by carriers such as BTC, 3RTC, Verizon and Alltel (p. 4). Feiss cites to PSC Chairman Jergeson's testimony before the Senate Natural Resources and Energy Committee that wireless service is still viewed by most people as a complement to wireline services (p. 4). Feiss adds that CW admits to provide complementary services

Feiss next testified that the designation of an additional CETC in rural areas is not consistent with the purpose of the FUSF, which is to provide access to affordable and quality services.[24] There is no evidence that designation of multiple ETCs will enhance phone service or penetration.

Feiss cites two studies by Criterion Economics to show that most CETCs were already successfully providing service to the large majority of their rural customers prior to designation as CETCs. He adds this is the case with CW given that 3RTC, BTC, Verizon and Alltel provide service to most if not all of the customer areas in CW's petition.[25] The Criterion studies also find no statistical correlation between the amount of wireless carrier support and the population or land area that wireless carriers cover, concluding that if subsidies to wireless CETCs are intended to increase service in high-cost areas, the vast majority of funds are simply wasted. He notes that AT&T reached a similar conclusion, finding that between July 2005 and July 2006 penetration in the U. S.

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[23] MTA was asked: "Why is Chinook's service a complementary service to the services that Alltel and Verizon Wireless provide?" MTA responded, in part, that it does not address whether CW's service may or may not be complementary to Alltel's or Verizon Wireless' services. DR PSC 030(e)

[24] MTA would not support CW's designation as an ETC even if Alltel's designation was revoked. DR PSC -029(b)

[25] MTA was asked, "since wireline ILECs also provided service to the large majority of their rural customers in Montana prior to their designation as ETCs, why does it apparently follow that ILECs need or deserve FUSFs, but CETCs do not?" MTA responded, in part, that the conclusion in the data request is unclear, but that the MTA testimony addressed the question of whether additional wireless CETCs should be designated. DR PSC -029(c) CW explained that Qwest resells Alltel's service, branded as Qwest's while Airtel offers limited wireless communications using "IDEN" technology. DR PSC -048

increased .6% while the fund ballooned.[26] He adds that consumers subsidize 3 to 4 wireless ETCs in the same household.

Feiss said Criterion also demonstrated that CETCs have no incentive to invest FUSFs since their reward is for each handset they "turn up," which is not the purpose of universal service. Feiss asserts the MCC reached a similar conclusion, that ETC status would burden the FUSF without any public benefit in Montana (p. 6, lines 4-10, no citation is provided for the case he mentions).

Finally, Feiss cites the Fifth Circuit Court of Appeals' finding that if there is sufficient and competitively-neutral funding to enable "all" customers to receive "basic" telecommunications service, the FCC has satisfied the "Act" and is not required to ensure sufficient funding for every local telephone provider (citing the Alenco Communications, Inc V. FCC, 201 F.3d 608, 620-621, 2001). Thus, there is no obligation to designate multiple ETCs.

Feiss next explains what Congress required when designating ETCs. First, he asserts the "Act" clearly established a higher standard in considering the designation of CETCs in rural areas. Based on Section 214(e)(2), he concludes that Congress recognized that designating additional ETCs in rural areas was "questionable" and set a specific distinction for rural areas for state PSCs to apply. Feiss adds that since enactment of the Act, it has become painfully obvious that such distinctions have been overlooked as multiple ETCs have been designated to serve both non-rural and rural areas.

Feiss next explains what the FCC and the Joint Board have done to stem the explosive growth in designations of CETCs. In February 2005 the FSJB recommended a rigorous ETC designation process to ensure the designation of only fully qualified ETC applicants. In comments, the FSJB's members Jonathon Adelstein and Bob Rowe

[26] MTA was asked "What difference does it make if one wireless CETC provides multiple lines in one household or multiple wireless CETCs provide the same number of lines in the same household?" MTA's response, in part, was to cite statistics from an AT&T ex parte and to conclude that in light of "this" it is unclear what public interest is served by continuing to designate additional wireless carriers when there is no evidence that such support actually increases the availability of wireless services. DR PSC -029(d)

encouraged states to apply a more stringent public interest test.[27] In March of 2005, the FCC issued its report and Order encouraging states to apply greater scrutiny to ETC designation applications to protect against FUSF growth. Feiss observes that the states continued to designate additional ETCs adding that an AT&T *ex parte* revealed that a majority of study areas have at least two CETCs. He adds that the explosion in ETC designations led the FSJB in a 7-1 decision earlier this year to recommend an interim cap on the FUSF support for CETCs in order to restrain growth in CETC funding.

Feiss next asserts that the demise of the FUSF would devastate Montana. Supporting multiple, complementary, redundant service providers in Montana with FUSFs, while nice, is an unnecessary and an unaffordable luxury that jeopardizes FUSF that is critical to the provision of "essential" services that Montana's rural LECs provide and that threatens the "fundamental telecommunications infrastructure of Montana." And, as wireless CETCs depend on this infrastructure, they threaten to kill their own host in what he terms a "parasitic effect." The FSJB reports that FUSF support for CETCs has grown from $15 million in 2003 to $1 billion in 2006 and is projected to increase to $2.5 billion by 2009. This year consumers paid 11.7% on their interstate phone bills although the assessment decreased to 11.3% in the current quarter. FCC Chairman Martin, Criterion Economics, AT&T and others all note that the explosive growth is attributed to the "growth of CETCs." Such growth offers few if any benefits yet "identical support" confers "unsubstantiated windfalls" on the CETCs. Feiss said that $200 million of support that CETCs receive is unintended, involving access charge reform for ILECs and not CETCs.

Feiss next testifies on why the PSC should consider the effect that granting CW's petition will have on the size of the FUSF. Whereas CW asserted that the FCC rejected the idea of assessing the impact of one designation on the FUSF, as it may be inconclusive, Feiss testified that "That hardly constitutes a 'specific rejection' of the effects of designating additional ETCs…" He adds that in the FCC order that CW cites the FCC declined to adopt a *specific test*, but did not reject consideration of the effect of additional ETC designations. The FCC said that a state may justifiably limit the number

[27] MTA explained that the cited 2002 testimony by members Rowe and Adelstein is not in the cited 2005 FCC proceeding. DR PSC -0029(e)

of ETCs so as to limit the strain on the FUSF. The growth in the FUSF to $1 billion is entirely attributable to the designation of wireless CETCs as support to ILEC ETCs has decreased.

Feiss next explained why CW's ownership structure is relevant to this proceeding. CW is an asset of the investment portfolio of Alta Communications ("Alta") and Alta is a Boston-based private equity firm that focuses on the media and telecommunications industries. Alta has 20 years of experience, a successful track record and manages about $1.5 billion of capital. Alta's wireless portfolio includes CW. Feiss concludes that any discussion of the potential benefits of venture capital and private equity aside, it is not the PSC's responsibility to authorize the use of FUSFs to augment the value of a Boston-based private equity firm's investment portfolio. The purpose of the "Act" is not to enhance shareholder value. The PSC should deny CW's application.

Chinook Wireless Rebuttal Testimony: Foxman, Peterson, Monroe

Jonathan Foxman

The purpose of Foxman's rebuttal testimony is to address the direct testimony filed by witnesses Buckalew and Feiss. First, in regard to Buckalew's testimony that CW can meet the minimum standards of service, Foxman agrees. Thus, the only remaining issue is whether CW's designation is in the public interest. Foxman disagrees with the MCC suggestion that the main public interest issue is of whether CW has made some purported cost/benefit analysis.

Foxman asserts that CW has addressed how it satisfied each of the 11 public interest considerations set forth in PSC rules, none of which contain any reference to a cost/benefit analysis. Nor does Foxman necessarily believe that a cost/benefit analysis would be relevant. He recognized that the FCC in its Virginia Cellular and Highland Cellular cases enunciated a "framework" of several factors to consider the public interest.[28] While the PSC may choose to conduct a cost/benefit analysis, such an analysis

[28] Factors in the FCC's cost/benefit analyses include 1) the benefits of increased competitive choice, 2) the impact on the FUSF, 3) the unique advantages and disadvantages of (CW's) competitive service offerings, 4) commitments made regarding quality of service, 5) the CETC's ability to satisfy its obligation to serve the designated service areas within a reasonable time frame, 6) the benefits to customers without

is not required by PSC rules or orders. Since such an analysis is not required it could not possibly be the main question as Buckalew asserts it is.

As for how CW would fare if the PSC were to undertake the FCC's cost/benefit analysis, Foxman asserts there would be little doubt that CW would satisfy the factors, as the same benefits and costs are present here as were present in those (FCC) cases, except that CW does not seek designation for any partial study area, such as was involved in the Highland Cellular case.

Foxman disagrees with Buckalew that CW did not set forth sufficient information to allow the PSC to conduct the review required under its rules or to perform the FCC's cost/benefit analysis. While a cost/benefit analysis is not required in Montana, CW presented sufficient evidence to demonstrate that it satisfies the 11-point public interest analysis set forth in the PSC's rules and its application and supporting testimony contained the information necessary for the PSC to determine that CW met the FCC's cost/benefit analysis. Because CW's Application and supporting testimony satisfies the PSC's 11-point test and the FCC's public interest factors its ETC petition should be granted. The information that CW provided that satisfies the factors in the FCC's cost/benefit analysis is as follows:

1. Competitive Choice: CW witness Peterson described the benefits of increased competition (p. 16, direct) when he states CW's use of a different technology platform provides consumers with choices in telecommunications services that would not otherwise be available. Because of CW's build out into new areas consumers in those new areas will experience competitive offerings, the ability to choose their service provider and the option to choose various rate plans with different mixes of rates, local calling areas and vertical features. CW's application addressed the potential benefits of competition to include:

a. providing consumers with competitive offerings and the ability to choose their service provider and to select from a variety of service offerings (para 43);

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wireline telephone access, 7) mobility insofar as it assists customers in rural areas who have significant commuting distances, 8) access to emergency services that can mitigate the unique risks of geographic isolation associated with living in rural communities and 9) larger local calling areas in which customers are subject to fewer toll charges (Virginia Cellular Order, ¶¶ 28-29 and Highland Cellular Order, ¶¶ 40-57).

b. CW's designation will promote competition and facilitate the provision of advanced communications services to the residents of rural Montana. In citing the FCC: "[d]esignation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies." (para. 46) and,

c. CW asserts that designation of CW as an ETC will spur a competitive response from affected ILECs as they seek to retain and attract customers. Assuming there are 700,000 wireless customers in Montana and 2% growth in wireless penetration per year, CW expects that a majority of its customers will come from other wireless carriers. DR PSC -040(b) Foxman explained that while he had no way of projecting how CW's competitors (Alltel and Verizon) may respond, market theory indicates that price competition will increase. DR PSC -039 Such a response could include improved service quality and customer service, new investments in telecommunications, more rapid deployment of high-speed data (DSL) service, wider local calling areas, bundled service offerings and lower prices overall. This competitive response is already occurring as a result of Alltel's designation in various Qwest wire centers. CW's designation will likely spark competitive responses from the affected ILECs and the beneficiaries of such competition will be Montana consumers. Notwithstanding Buckalew's characterization, CW's application and testimony that demonstrates the benefits of competitive choice associated with CW's ETC status is both "substantive" and "sufficient."

2. Impact on fund: Foxman testified that CW's application (pp. 23-24) and Peterson's direct (pp. 14-15) also discussed the impact on the fund. CW estimates that its potential draw from the fund is very small. Even if every single telecommunications customer in the service areas that are the subject of CW's application decided to take CW's service, CW would be distributed six-tenths of 1% of the FUSF, however unlikely this outcome is.[29] Foxman adds that CW takes seriously the principles of universal

[29] CW estimates that of the $5.8 million in annual support, it would receive about $5.2 million in 3RTC's area, $376 thousand in Qwest's service area and $217 thousand in BTC's service area. DR PSC -047 CW estimated earlier in 2007 that it served 3,339

service and the viability of the fund. The tone of intervenor testimony and the dire predictions that CW's designation will lead to the demise of the FUSF or threaten the viability of the FUSF are not credible. And, as the PSC has observed, the FCC's own actions have created a much larger impact on the fund than any PSC decision may have created. The PSC has granted a small number of applications and in 2006 the impact has also been small, amounting to about $7.2 million, compared to the $69.7 million that wireline ILECs receive (re FSJB 2006 Monitoring report, Table 7.2). However, as the PSC observed, if the FCC is to have a balanced approach it must not ignore universal service benefits to the exclusive focus on fund size (re PSC's June 6, 2007 comments, CC 96-45, WC 05-337). Foxman said that dire predictions of the FUSF's demise, first made by IXCs, have been made continuously for 15 years. The FUSF exceeds $6 billion and few experts honestly expect that it is near extinction.

As for the MTA's comments on the impact on the FUSF, Foxman cites to Chairman Martin's admission in a May 14, 2007 letter to Edward J. Markey that three quarters (3/4ths) of the increase associated with the present 11.7% contribution rate, in increase of 2% in 2007, is due to "true ups" in the FUSF caused by prior period adjustments from AT&T and Verizon for under-reported revenues and changes made in the "bad debt reserve."[30] Only a small part of the increase in the contribution rate is due to increases in high cost support. Whereas Feiss seems to argue and believe that based on FCC Chairman Martin's statements the designation of CETCs was an unforeseen policy accident Chairman Martin does not speak on behalf of the FCC. The FCC has granted numerous CETC designations including multiple designations within a single support area.[31] CW adds that neither the MCC nor MTA has documented the costs of

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mobiles in 3RTCs service area, 566 in BTC's service area and 14,800 in Qwest's service area. DR PSC -048(d)

[30] CW said that 1.5% of the 2% increase to the 11.7% is for the second quarter of 2007. The remaining .5% increase is due to the reductions in the funding base, increases in program demand, including for high-cost support. DR PSC -040(d)

[31] CW explained the benefit of having two wireless carriers designated as ETCs in Qwest's exchanges. DR -008(b) CW explained that the impact of its designation on the financial health of an existing wireless carrier is not a deciding factor in whether to designate CW as an ETC. DR -012(b)

designating multiple CETCs in an area. Based on studies CW conducted there are instances when there are 5, 6 or 10 CETCs in the same ILEC study area, in a state, yet the total "draw of support" to those carriers remains significantly below that which is paid to the incumbent wireline carrier servicing the same area. DR PSC -044(b) CW said it is inconsistent with Section 254 of the '96 Act to allow multiple designations of ETCs in other states but to then allow only one ETC designation in study areas in Montana. DR PSC -045(d) CW said that Feiss' opposition to designating multiple ETCs in the same area is discriminatory because it treats similarly situated CETCs differently and it is not competitively neutral because it would result in the availability of support and the application of rules that advantage ILECs an CETCs that are already designated. DR PSC -045(d) CETCs have been designated across the country pursuant to a "fully-realized" Congressional policy expressed in the '96 Act. The '96 Act was designed to introduce new entrants into the formerly closed system for universal service but has increased the FUSF's size, as Congress recognized it would, in order to open local markets to competition and to bring the consumers the benefits of competition. As long as the law, the FCC rules and policy and Montana's laws and PSC rules are intact, they should continue to be applied in a consistent, nondiscriminatory and competitively neutral manner. Congress however clearly concluded that breaking open the existing local service monopolies, and the exclusive availability of FUSFs to those companies, would far outweigh the costs of additional funding.

Foxman adds that investments by new CETC in rural America and by ETC ILECs bring forth new and improved service and technologies. Services offered in Montana by CATV and wireless providers impact ILEC businesses such that rural carriers must offer significantly improved pricing, bundled services, fast broadband via DSL and cable modem service, all to the benefit of the rural consumer.[32] Likewise, CW's plans to improve its existing services and expand coverage should incent ILECs to improve and expand their service offerings. CW's offerings will also bring added health and safety

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[32] Depending on the distance an ILEC's customer is from the central office vis-à-vis the 18,000 foot constraint CW said a wireless carriers internet speed may not be slower than DSL speeds. And depending on distance DSL may not even be available in some ILEC central offices. DR PSC -040(a)

benefits, as well as new economic development opportunities. Thus, Foxman concludes to deny CW ETC designation is not in the best interests of Montana consumers.

3. and 4. Unique Service Offerings and Quality Telephone Service: Foxman addresses these two issues together because what makes CW's offerings unique is their reliability and commitment to service quality. He adds that CW's application and testimony described CW's unique advantages. First, CW is the only comprehensive and commercially available GSM/EDGE based wireless provider in Montana, although another carrier offers it for roaming purposes. Foxman later added that some consumers find it significant that CW provides the world's dominant technology standard and appreciate the benefits, aside from the numerous other competitive benefits. DR PSC -039(a),(b) That Montana's second largest economic sector is tourism makes this distinction critical as CW's network is technologically compatible with all of the AT&T wireless customers that visit Montana and GSM is the principal technology used internationally by tourists. CW's also focuses on network reliability and customer service, as Peterson has described (pp. 2-3). CW witness Monroe (direct, p. 10) also states that CW offers a high level of service quality by emphasizing network reliability and by ensuring its ability to operate in emergencies. As well, Monroe states that CW will adhere to CTIA's Consumer Code for wireless Service and CW commits to service quality as evident from CW's 24-hour network monitoring that reduced outage response times to less than an hour. Monroe discussed CW's redundant "transport" routing that is designed to meet a voice channel availability objective above 99.9%.[33] Foxman said Monroe discussed CW's "multiple signaling transport points," and its intensive network monitoring and call completion rate of 98%. CW is committed to customer service and service quality.

5. Coverage Within a Reasonable Time: Foxman asserts that CW commits to build out its network within the 5-year time frame required in the PSC's rules to meet the 98% coverage requirement.

6. Availability of Access Where Wireline Access Does Not Exist: Foxman said

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[33] CW said that its special access transport is of leased facilities to provide traffic between IXC hubs and Cell sites. DR PSC -041

that CW's expanded network will provide functionality in places where wireline service is not available. With FUSF support, CW commits to improve and expand its coverage to unserved and underserved areas, as reflected in the build out plans in its application.

7. Mobility: Foxman asserts that wireless services are particularly critical in Montana's rural areas and CW will provide access to mobile service in rural areas at a high quality and with reliability that is not available today.

8. Emergency Services: Foxman said that mobile wireless universal service provides access to emergency services that can mitigate the unique risks of geographic location that associates with living in rural communities.

9. Local Calling Area: CW's MTA covers an area larger than the State of Montana, provides a larger toll-free calling area and its nationwide calling plans obviate the need to pay toll or per-minute charges for any calls.

Foxman disagrees with Buckalew's assertion that CW has engaged in an atypical form of cream skimming. The FCC defines cream skimming as a competitor's request to serve only the low-cost, high revenue customers in a rural telephone company's study area (citing Highland Cellular, ¶ 26; Virginia Cellular, ¶32 and ETC Report and Order ¶49.) Thus, cream skimming is at issue only if CW sought designation for part of a rural carrier's service area.[34] Buckalew's un-cited and novel theory is without precedent. The FCC's concerns for when less than an entire study area is to be served do not exist as CW seeks ETC designation throughout the study areas at issue. To adopt Buckalew's theory, CETCs could be forced to expand into areas where no business case or economic case can be made to serve. Such a requirement makes no sense and seems inconsistent with the MCC's express concern with the FUSF's size. In addition, if his theory was adopted, unserved and underserved areas where CW sought support could be deprived of universal service.

Foxman testified that Buckalew's assertion that CW's primary driver is financial,

[34] CW said the FCC has never found cream skimming to exist when a carrier proposes to serve an entire ILEC study area but not other ILEC study areas. CW also said the MCC advanced the cream skimming theory as a "catch-22" to prevent any carrier licensed throughout the state from meeting the requirement for ETC designation. This is because CW is not confident that it could meet the 98% requirement throughout the state within the 5 year constraint. Like CW, Alltel also has a license to serve most all of Montana.

not universal, is not true. First, the two drivers are not mutually exclusive as any company must be financially successful in order to provide universal service. As for Buckalew's mischaracterization of its business plan that CW prepared for potential investors, Foxman asserts that statement was prepared for potential investors when CW was proposing to acquire the assets of 3RTC and BTC; that is, to purchase portions of CW's current network and to operate as a going concern. In this regard, CW's statement about selling to a larger company was merely identified as exit strategy option, not CW's ultimate business objective, to address the occasion when CW does not perform according to expectations or its business strategies fail.

Foxman also disagrees with Buckalew's assertion that CW does not understand its obligation to serve. As explained in its application (p. 9), CW is well aware of its obligation to meet all reasonable requests for service in the study areas at issue. In addition, Monroe also addressed (pp. 8-9) how CW satisfies this requirement. While CW has made clear that it will use its own facilities whenever possible to serve reasonable requests for service as Monroe said, it may on occasions employ resale and roaming agreements to meet reasonable service requests.

Foxman disagrees with Buckalew's testimony that CW must have a plan and capacity (demonstrated and/or planned) to handle carrier of last resort obligations (COLR) in order to be designated an ETC. He disagrees, as no COLR requirement exists in Montana law, the PSC rule or prior PSC orders.

Foxman absolutely disagrees with Buckalew's assertion that CW has provided no evidence to demonstrate that its application is in the public interest. CW has thoroughly addressed and satisfied each of the 11 public interest considerations set out in the PSC's rules.

Foxman states to understand that Feiss' job is to manage a trade association made up of small landline LECs, two of which are parties to this docket. He states to have concern with the procedural advantages that the two members have as they can influence Feiss' testimony while insulated from discovery by CW. Thus CW is impeded in its ability to rebut fully MTA's assertions.

Foxman disagrees with that part of Feiss' testimony that urges the PSC to reject

CW's application because its designation will not provide any tangible benefit to Montana consumers and will exacerbate the threat to the viability of the FUSF. He disagrees as the trade association that Feiss represents does not represent the interests of Montana's consumers. In addition, Foxman has addressed concerns over the alleged threat to the FUSF. Whereas Feiss claims CW's designation will jeopardize the FUSF's existence, Feiss knows that the FUSF has grown by more than 1000% and is still operating whereas CW's designation will add at most 1% to the fund's size. Feiss and the MCC would prefer to deny rural consumers the possibility of more and better cellular coverage because of an almost infinitesimal increase in the FUSF's size, the vast majority of which would not show up in the bills of Montana's consumers. Neither Feiss nor the MCC explained why the PSC should deny Montana consumers the opportunity to have access to universal service that wireless carriers can provide while the FCC and other states continue to approve of such ETC petitions. Montana's consumers stand to lose the most if CW is not designated an ETC. Foxman adds that FUSF matters, such as its size and growth, are a federal matter and is not state jurisdictional.

As for Feiss' claim that CW's designation should be denied as there is no need to support multiple ETCs, Foxman also disagrees. Feiss' claim that multiple ETC designations will not enhance phone service is contrary to the evidence CW has presented and it is contrary to prior FCC rulings as well as prior designations made by this PSC. He adds that there is no FCC rule or order limiting the number of wireless carrier designees as it would be contrary to the competitive model adopted by congress in the '96 Act. He further adds that Congress did not envision making universal service available only to the ILEC. Affording competitors access to FUSFs allows beneficial competition to take place on competitively neutral basis.

Foxman adds that, in any case, in the 3RTC and BTC areas there are no other CETCs. CW intends to use FUSFs to improve on the available service in underserved areas and expand service in unserved areas. Thus, there can be no dispute that there is no underlying carrier serving the unserved areas and service to these areas would be in the public interest – providing service today where none exists. In response to CW's discovery, Feiss also claimed that his "proposal" was competitively neutral based on cites to FSJB statements regarding differing regulatory treatment and "regulatory disparities"

(p. 21).

Whereas Feiss cites the expanded local calling area available to wireless carriers, noting that it is an apparent advantage that the FCC considers as a favorable public interest "attribute," Feiss then turns this "factor on its head" given his use of the factor to deny ETC status is clearly contrary to FCC orders (p. 21).[35] Although the FCC granted waivers to allow manufactures to produce compliance equipment, Feiss also claims that wireless carriers enjoy "holidays" from 911 and hearing aid compatibility federal regulations. Thus, Feiss is not correct to claim regulatory arbitrage and there is no basis to treat CW differently from ILECs or other ETC applicants. Feiss' proposal to allow already designated ETCs to retain their status but deny future ETCs access to FUSFs is discriminatory and not competitively neutral.

Foxman said Feiss' claim that current universal service rules provide no incentive for CW to build network facilities is incorrect. CW's witness Monroe has addressed the technical flaws in this assertion as handsets are of little value if there is insufficient network capacity and infrastructure. Still, Montana rules require CW to achieve 98% coverage within five years of designation in a study area. And, the PSC will carefully monitor CW's build out as CW reports its progress. In addition, CW must certify that it uses FUSFs for the provision, maintenance and upgrading of facilities and services for which the support is intended. Thus, Feiss' claim that CW can simply increase handsets is not correct.

Foxman admits to having trouble understanding Feiss' assertion that CW is an asset of a private equity firm's investment portfolio and his speculation that CW intends to use FUSFs to prop up the value of assets for its shareholders' ultimate financial gain. Foxman said that Feiss produced no evidence to support this testimony nor did he explain its relevance. Foxman adds, the fact a private equity firm has some investment interest in CW, along with employee owners, has no impact on CW's qualification for and use of FUSFs. Foxman finds it difficult to understand how CW is any different from Feiss' own clients who are "shareholder" or "member" owned: does the fact that members of MTA

[35] CW was asked to explain the advantage that MTA's Feiss alleged. CW said that Feiss contents that because wireless carriers' local calling areas encompass the entire MTA they are advantaged because they pay reciprocal compensation, not access charges, for

are shareholder or member owned suggest that their FUSFs are used to augment the value of their investment in the MTA member companies? When asked in discovery to explain the relevance of this testimony, Feiss only recited his initial testimony.

Foxman concludes that CW has fully and completely demonstrated its satisfaction of the public interest requirements in PSC rules and in the FCC's cost/benefit factors and the PSC should grant CW its ETC designation petition.

Ernie Peterson

Ernie Peterson's rebuttal testimony addresses parts of the direct testimony and certain data responses filed by the MCC's Buckalew and MTA's Feiss. Peterson disagrees with Buckalew's testimony that CW could not quantify a single rural or non-rural benefit that would result from CW's obtaining ETC status. CW's application and testimony thoroughly detail the benefits of its designation. CW also attached letters of support from a variety of businesses and governmental agencies attesting to the need for quality communications services such as CW provides and confirming the benefits that CW as an ETC would bring to their areas. As an ETC, CW will increase access to mobile services by way of newly constructed cell sites to improve coverage. Consumers will have competitive offerings, the ability to choose among service providers and a variety of rate plan options. Positive economic development benefits will also accrue to consumers in areas where CW deploys its services as businesses consider the availability of such services when deciding where to locate. Such decisions can benefit rural areas in terms of employment and tax base as well as enabling rural communities to compete with other rural communities in part by enabling shoppers and others to do business in communities where they can use wireless phones. Mobile service also benefits consumers needing to make emergency 911 calls as well as law enforcement because of mobility and the security that cellular service provides. As an ETC, CW would bring at least all of the foregoing benefits to a greater number of consumers. Therefore, contrary to Buckalew's assertions CW has identified numerous benefits associated with CW's receiving ETC designation.

Peterson disagrees with Feiss' claim that CW as an ETC will merely exacerbate

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calls completed in the MTA. DR PSC -045(b)

an already critical threat to the viability of the FUSF which is vital to the advancement of essential telecommunications services, as opposed to redundant and complementary services.[36] Peterson also explained that non-rural carriers, such as Qwest, receive support for all lines, not just the primary line. DR PSC -037(d) Although Foxman addressed this claim, Peterson disagrees that Feiss' members provide "essential" services while CW's services are redundant. Supported services provided by any CETC are just as essential as services that MTA's members provide. For example, a customer suffering a heart attack on a road would find CW's service "essential," whether landline service exists or not.

Peterson also finds a misperception with the arguments that Feiss and Buckalew made that since landline ETCs completely cover the service areas, wireless service is not necessary. There is a misperception as the ILECs completely color their exchange maps when in fact their coverage is limited by the location of their existing fixed networks. Wireless carriers on the other hand have the ability to fill in the coverage gaps where a landline carrier's network does not reach. Thus, CW sees the ILECs as covering only the tiniest fraction of the service area made up "pinpoint" locations where a fixed-line network connects to a telephone at a home or a business. None of the space between is covered at all by wireline services. Cordless phones limit calls to within a few hundred feet of the base station. Conversely, a wireless carrier's coverage map shows clearly where coverage is available. Thus, the coverage area differences between a wireless and wireline network are vast.

Peterson adds that consumers want wireless service and wireless providers and their customers have paid into the FUSF for many years. As of the first quarter of 2006, wireless contributions were 32.3% of the total FUSF contributions, funding that largely supports landline facilities.[37] Funding only landline technology is fundamentally unfair

[36] CW said wireless service in Montana is a complement not a substitute for wireline service. DR PSC -008(d)

[37] CW agreed that although broadband is not, per se, a supported service rural and non-rural ILEC ETCs provide for the provision of broadband, the so-called "no-barriers," that involves joint products. CW added that its network costs in Montana are representative of both its incremental costs and its accounting costs, but that its "actual" costs are not the same as its accounting costs. DR PSC -046

where both technologies contribute to the FUSF and legally unsound because consumers derive benefits from funding of new technologies. In addition, lawmakers indicated that funding of advanced technologies is in the public interest. Thus, wireless services are not redundant and such service offers the ability to use voice and data services in a mobile environment where landlines do not. Although mobility is not a supported service identified by the FCC, it is in the public interest as the PSC concluded in Order 6723a to make mobility available. Both the PSC and the FCC consider the benefits of mobility in assessing whether a mobile provider should be designated an ETC as part of the public interest determination.

As for Buckalew's assertion that CW's commitment to provide service to unserved and underserved areas is hypothetical, Peterson notes where in both CW's application and testimony that it explained its plans to increase coverage if designated an ETC. One case involved Highway 200 between Missoula and Great Falls, where CW's coverage would overlay the Augusta and Fort Shaw exchanges of 3RTC and the Ovando and Potomac exchanges of BTC. CW's expansion will also add service to mountainous areas not served by ILECs. Other examples include Highway 89 south of Livingston where CW has already begun to build some coverage, and with USF funding will be able to add new service which would benefit Qwest's Livingston and Gardiner exchanges. CW would also build additional facilities between Billings and Great Falls as well as in Qwest's West Glacier exchange where it would tie into 3RTC's Browning exchange. CW explained that although FUSFs are not available in the Billings exchange, the northern end of the Billings exchange is an example of an unserved/underserved area that CW will build out to serve and CW will obtain per line support based on the ILEC's cost for its entire study/service area. In addition, low-income consumers in the Billings exchange will have access to Lifeline and Link-up benefits. DR PSC -035(b) CW has begun building in BTC's Seeley Lake exchange and FUSFs would allow it to continue construction north along Highway 83 into 3RTC's Condon exchange (sic). If designated ETC, CW also intends to build out in 3RTC's Lima, Power and Highwood exchanges. CW believes many of these areas are vastly underserved.

Peterson disagrees with Buckalew's testimony that hold the provision of advanced services that are in the public interest are not supported services. The "Federal Act," the

FCC's rules and orders and the PSC clearly consider the provision of advanced services as relevant to ETC designations. One universal service principle is to ensure access to advanced services in all regions of the nation. Peterson adds that the PSC has included in its ETC rules, as part of the public interest analysis, a requirement that the applicant demonstrate that its technologic platform is compatible with the provision of advanced services. People want access to e-mail and other Internet-based information (e.g., stock quotes, commodity prices etc.,) in areas not within the reach of landline phones. The only affordable access that benefits the public is via a carrier's wireless service that can provide mobile data "throughout," such as roadside medical care and improved business operations (pp 8-9).

As evidence of the utility of mobile services in rural areas Peterson reports on the preferences rural youth have for telecommunications. A 2006 survey by NTCA (National Telecommunications Cooperative Association) and the FRS (Foundation for Rural Service) found that rural youth are abandoning traditional wireline services in favor of wireless service. Two-thirds of the respondents said they have and use the features of a cellular phone. About three-quarters of the respondents said they only use a wireline phone to make calls when at home. One-tenth said they never use a wireline phone. Based on a more recent NTCA and FRS survey, 90% of the young people living in rural areas have cell phones.

Peterson disagrees with Feiss' claim that Alltel has not improved its wireless service since it was designated an ETC and implying that the same can be expected from CW if it receives ETC designation. While not intimately familiar with Alltel's network or service quality, as an Alltel competitor Peterson said that Alltel has aggressively built out in Montana, and at an increased pace since receiving ETC designation.

As for the allegations made by both Buckalew and Feiss that since other companies have not followed the rules CW will not follow the rules, Peterson disagrees and labels their assertions pure speculation. Peterson is not aware of any CETC in Montana that has failed to follow the PSC's rules, but if there is, the PSC can rectify the situation. In any case, it does not follow that CW will not follow the rules just because another CETC failed to do so. He finds their allegations both unsubstantiated and no basis to reject CW's application. CETCs are independent and CW has a corporate culture

of complying with all legal matters. CW commits to follow the PSC's rules and requirements if designated an ETC.

As for Montana, Peterson disagrees with Feiss' claim that "the review" of ETC applications has not been rigorous. The PSC uses a contested case procedure with every ETC application, conducts hearings and it considers evidence in granting each application. Thus, the PSC has carefully and rigorously reviewed each ETC application to ensure they satisfy the rules.

Peterson finds incorrect Feiss' claim that CW's investors just want a subsidy because they invested in CW. CW's investors have poured millions of dollars into Montana, including rural areas of the state, in order to provide new infrastructure, to support CW's operations, to pay its employees and to pay for services that other Montana companies provide. They (CW's investors) did so without seeking subsidies. FUSFs will enable CW to add coverage to underserved and unserved areas where a business case to do so could not otherwise justify. CW wants to expand its coverage and to keep its rates affordable.

As for Feiss' contention that CW intends to use FUSFs to lower prices, Peterson testified that CW intends to use FUSFs to build out added coverage to the underserved and unserved areas at issue. Absent FUSFs, the price for these services would not be affordable as the cost of the facilities compared to the return would not justify construction. Thus, CW does seek FUSFs to ensure that it can offer services in rural areas that are comparable to those offered in urban areas and at comparable rates. This is a basic universal service principle set forth in the "Federal Act."

Patrick Monroe

Patrick Monroe's rebuttal testimony addresses parts of the direct testimony filed by the MCC's Buckalew and MTA's Feiss. First, as for Buckalew's testimony that CW could not quantify a single rural or non-rural benefit that would result from designating CW as an ETC, Monroe said CW will provide the supported services, high-quality and reliable services, it will comply with PSC service quality requirements and it will comply with the CTIA's Consumer Code for Wireless Service. Second, FUSFs will allow CW to construct facilities to improve its signal strength and to expand service in underserved

and unserved areas. Thus, he cannot see how Buckalew could possibly interpret CW's testimony to not quantify any public benefits.

As for Buckalew's contention that CW does not understand its obligation to serve "all" customers in the study area, not just where the ETC has facilities, Monroe responds that CW is not confused about its service obligations. As stated in prefiled testimony (p. 8), CW is well-aware of its obligation to meet "all reasonable requests for service" and it commits to meet such requests in the study areas and wire centers at issue in this proceeding.

Monroe finds inaccurate Buckalew's testimony asserting CW said it will not serve every customer and that it has no plans to use other carriers' local facilities to satisfy customer requests. Monroe restates his initial testimony holding that CW will enter into resale and roaming agreements to provide the supported services that its customers have requested. And, CW has consistently stated its intent to use its own facilities to meet reasonable service requests. When it cannot do so using its own facilities it will enter into resale and roaming agreements.

As for Feiss' allegation made that CW has no incentive to invest in new infrastructure but rather seeks to distribute as many handsets as possible, Monroe said that just as CW is in the business of selling communications channels so are the members of the MTA that Feiss manages. However, without adequate network capacity and infrastructure, handsets have little value. Thus, as with the case of twisted copper pairs there are limits on the channels available within a given transmission medium and the number of handsets that can be "turned up" without increasing radio capacity. Since customers will not tolerate blocked calls very long, CW has every incentive to invest to expand its network in ways that Feiss says CW lacks the incentive to pursue.